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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

Telecommunications Services Inside Wiring,

Customer Premises Equipment

In the Matter of

Implementation of the Cable Television  
Consumer Protection and Competition Act of  
1992,

Cable Home Wiring

CS Docket No. 95-184

MM Docket No. 92-260

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**OPPOSITION AND COMMENTS OF DIRECTV, INC.**  
**TO PETITIONS FOR RECONSIDERATION**

James F. Rogers  
Nandan M. Joshi  
LATHAM & WATKINS  
1001 Pennsylvania Avenue, N.W., Suite 1300  
Washington, D.C. 20004-2505

Counsel for DIRECTV, Inc.

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DIRECTV, Inc. ("DIRECTV") submits this opposition to the petitions for reconsideration filed by certain cable interests and these comments in support of petitions for reconsideration filed by certain other parties in response to the Commission's *Report and Order and Second Further Notice of Proposed Rulemaking* ("Inside Wiring Order"), in the above-captioned proceeding.

**I. INTRODUCTION AND SUMMARY**

The Commission adopted the *Inside Wiring Order* "to foster the ability of subscribers who live in [multiple dwelling units ("MDUs")] to choose among competing service

providers.”<sup>1</sup> To that end, the Commission adopted rules to “promote competition and consumer choice by bringing order and certainty to the disposition of MDU home run wiring upon termination of service.”<sup>2</sup>

Predictably, the cable interests, which hold substantial market power in the multi-channel video programming distributor (“MVPD”) market,<sup>3</sup> have petitioned for reconsideration of the inside wiring rules in an effort to delay further the development of MVPD competition in MDUs.<sup>4</sup> These petitions seek to dilute the effectiveness of the inside wiring rules by limiting the circumstances under which they would apply. These petitions, if granted, would prevent an MDU owner from using the inside wiring rules to obtain access to the MDU’s home run wiring if (1) the MDU owner seeks to replace the MVPD for the entire building, (2) the MDU owner receives “excess compensation” from an alternative MVPD, or (3) the building is located in a state that has enacted a mandatory access statute. Moreover, even when the inside wiring rules would apply, the petitions filed by cable interests would have the Commission toll the rules in each case until the conclusion of a possibly lengthy judicial proceeding. The petitions for

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<sup>1</sup> Telecommunications Services Inside Wiring, Customer Premises Equipment, *Report and Order and Second Further Notice of Proposed Rulemaking*, CS Docket No. 95-184, FCC 97-376, at ¶ 35 (rel. Oct. 17, 1997) (“*Inside Wiring Order*”); *see also Further Notice of Proposed Rulemaking*, CS Docket No. 95-184, FCC 97-304, at ¶¶ 25-31 (rel. Aug. 28, 1997) (“*Further Notice*”).

<sup>2</sup> *Inside Wiring Order* at ¶ 39.

<sup>3</sup> *See Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, Fourth Annual Report*, CS Docket No. 97-141, FCC 97-423, at ¶¶ 7, 128 (rel. Jan. 13, 1998) (“*1997 Video Competition Report*”).

<sup>4</sup> *See* Petition for Reconsideration of Time Warner Cable (“Time Warner Petition”); Petition for Reconsideration of the National Cable Television Association (“NCTA Petition”).

reconsideration filed by the cable interests are contrary to the procompetitive policies underlying the *Inside Wiring Order*, and, accordingly, they should be denied.

In contrast to the petitions filed by the cable interests, DIRECTV and several other parties have filed petitions for reconsideration that seek to enhance the procompetitive policies underlying the *Inside Wiring Order*.<sup>5</sup> These petitions, if granted, would expand the reach of the inside wiring rules, would provide MDU owners and alternative MVPDs with greater certainty with respect to their right to access inside wiring, and would foreclose incumbents from using coercive tactics to deter MDU owners from switching video service providers. These petitions are consistent with the Commission's policies of promoting competition and consumer choice in MDUs and, for that reason, should be granted.

## **II. THE COMMISSION SHOULD REJECT PROPOSALS BY THE CABLE INTERESTS THAT WOULD EVISCERATE THE COMMISSION'S INSIDE WIRING RULES**

The cable interests have filed petitions for reconsideration that, if granted, would prevent many MDU owners and residents from receiving the procompetitive benefits of the inside wiring rules. The cable interests seek to create unwarranted exceptions to the application of the inside wiring rules, effectively shielding many cable incumbents from competition by alternative MVPDs. Where incumbents could not take advantage of one of these proposed exceptions, the cable interests would enhance the ability of incumbents to frustrate competitive entry by alternative MVPDs through the use of state judicial proceedings. The petitions filed by

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<sup>5</sup> See Petition for Reconsideration of DIRECTV, Inc. ("DIRECTV Petition"); Petition for Reconsideration of Media Access Project and Consumer Federation of America ("MAP/CFA Petition"); Petition of Ameritech for Partial Reconsideration ("Ameritech Petition"); Petition for Reconsideration of the Wireless Cable Association International, Inc. ("WCA Petition"); Petition for Reconsideration of Consumer Electronics Manufacturers Association ("CEMA Petition").

the cable interests should be denied because they would impede the development of MVPD competition in MDUs and, thus, are contrary to the policies outlined in the *Inside Wiring Order*.

**A. THE COMMISSION SHOULD DENY TIME WARNER'S PETITION NOT TO APPLY THE INSIDE WIRING RULES WHEN AN MDU OWNER SEEKS TO REPLACE THE VIDEO SERVICE PROVIDER FOR THE ENTIRE BUILDING**

The *Inside Wiring Order* establishes two procedures by which an MDU owner can obtain access to the inside wiring of a building. The building-by-building procedures apply if an MDU owner seeks to replace the incumbent provider with an alternative MVPD for the entire building.<sup>6</sup> The unit-by-unit procedures apply if an MDU owner seeks to allow multiple service providers to compete head-to-head for subscribers within the building.<sup>7</sup> In Time Warner's petition for reconsideration, it urges the Commission to restrict the flexibility provided to MDU owners by eliminating the building-by-building procedures.<sup>8</sup> Although Time Warner seeks to justify its proposal as procompetitive, grant of its petition would, in fact, have the effect of hindering the development of competition in the MVPD market.

Time Warner claims that eliminating the building-by-building procedures would promote consumer choice by creating an incentive for MDU owners to choose unit-by-unit competition rather than building-by-building competition. In fact, eliminating an MDU owner's ability to act on a building-wide basis could have precisely the opposite result. In many cases, the only way an alternative MVPD will be willing to undertake the expense associated with

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<sup>6</sup> *Inside Wiring Order* at ¶ 41.

<sup>7</sup> *Id.* at ¶ 49.

<sup>8</sup> Time Warner Petition at 12-13.

replacing the cable incumbent is to obtain exclusive access to the building.<sup>9</sup> In these cases, Time Warner's proposal would preclude competitive MVPDs from serving a building and would thereby force many MDU owners and residents to obtain MVPD service only from the cable incumbent.

Moreover, use of the building-by-building procedures by an MDU owner can help promote competition in the MVPD market on a broader level. As the Commission recently noted in its 1997 *Video Competition Report*, "the cable industry continues to occupy the dominant position in the MVPD marketplace."<sup>10</sup> Because cable holds such a dominant position, a regulatory framework that facilitates consumers' ability to switch to alternative MPVDs inevitably promotes competition. The building-by-building procedures facilitate switching to alternative MPVDs because they provide MDU owners with flexibility in determining the best way in which to offer their residents video programming services and thereby to make their buildings more attractive to prospective residents.<sup>11</sup> As more MDU owners switch from cable incumbents, alternative MVPDs earn greater market share and develop into more effective

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<sup>9</sup> Issues relating to exclusive contracts are the subject of a related proceeding in this docket. See *Inside Wiring Order* at ¶¶ 258-66. As explained by DIRECTV in comments filed in that proceeding, exclusive contracts can be procompetitive when used by new entrants competing against entrenched incumbents with market power, but such contracts have an anticompetitive effect when used by MVPDs with market power. See DIRECTV Comments at 7 n.9.

<sup>10</sup> 1997 *Video Competition Report* at ¶ 7.

<sup>11</sup> An MDU owner may wish to switch the entire building to a new MVPD for a number of reasons. For example, an MDU owner may wish to purchase the services of a particular MVPD as part of a "suite" of services, including telephony, Internet, or alarm monitoring services. See 1997 *Video Competition Report* at ¶ 130. An MDU owner also may wish to include the cost of a new video programming service as part of the rent for an MDU unit for marketing purposes. In either case, the MDU owner generally would need to switch the entire building to the new service provider.

competitors to cable. For this reason, the building-by-building procedures are an important part of the overall inside wiring framework, and Time Warner's proposal to eliminate them should be denied.<sup>12</sup>

**B. THE COMMISSION SHOULD DENY TIME WARNER'S PETITION TO CREATE AN EXCEPTION TO THE INSIDE WIRING RULES WHEN AN MDU OWNER RECEIVES "EXCESS CONSIDERATION" FROM AN ALTERNATIVE MVPD**

In Time Warner's petition for reconsideration, it proposes that the inside wiring rules not apply when an MDU owner receives "excess consideration" from an alternative MVPD.<sup>13</sup> Time Warner asserts that the purpose of this exception is to prevent MDU owners from considering factors other than the nature and quality of the video services being offered. It is worth noting, however, that Time Warner nowhere proposes that the Commission eliminate compensation schemes that currently exist between cable incumbents and MDU owners. In fact, many incumbent cable operators currently provide some form of compensation to MDU owners. As a result, alternative MVPDs often must match or exceed the financial benefits provided by incumbent MVPDs to convince MDU owners to switch video service providers. (Indeed, even where there is no incumbent, an MVPD -- even one with market power -- must sometimes provide compensation to an MDU owner to obtain access to the premises.) Prohibiting arrangements of this sort would discourage MDU owners from switching providers, a result that would be contrary to the procompetitive policies outlined in the *Inside Wiring Order*.

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<sup>12</sup> To the extent the Commission wants to enhance competition at the subscriber level immediately, DIRECTV urges the Commission to adopt DIRECTV's proposal to allow MDU owners to require sharing of wiring. *See Inside Wiring Order* at ¶¶ 270-71.

<sup>13</sup> Time Warner Petition at 13-14.



Accordingly, Time Warner's petition to create this exception to the inside wiring rules should be denied.

**C. THE COMMISSION SHOULD DENY PETITIONS THAT WOULD ALLOW INCUMBENTS TO USE STATE MANDATORY ACCESS LAWS OR JUDICIAL PROCESSES TO AVOID THE APPLICATION OF THE INSIDE WIRING RULES**

Time Warner and NCTA have proposed that the Commission not apply its inside wiring rules in states that have enacted mandatory access statutes and that the Commission toll the inside wiring rules until resolution of a state court proceeding that may be brought by an incumbent.<sup>14</sup> As discussed below, these proposals should be denied. At the outset, however, the Commission should reexamine its decision to address the disposition of inside wiring only in those buildings where the incumbent provider “no longer has an enforceable legal right to maintain its home run wiring on the premises.”<sup>15</sup> This decision is a fundamental mistake. In far too many cases, cable operators have used their market power to extract from MDU owners long-term or even perpetual contracts that automatically renew with the renewal of the cable operators' franchise, many of which contain exclusivity provisions. In addition, at least eighteen states have enacted mandatory access laws that also may thwart the ability of MDU owners to invoke the inside wiring rules.<sup>16</sup> By imposing this limitation of the inside wiring framework, the Commission ensures that the cable industry will continue to experience only limited competition.

If the Commission hopes to use the inside wiring rules to permit residents of MDUs to choose between alternative MVPDs, it must permit MDU residents to choose their

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<sup>14</sup> See Time Warner Petition at 2-8, 12-13; NCTA Petition at 2-6.

<sup>15</sup> See *Inside Wiring Order* at ¶ 69.

<sup>16</sup> *Id.* at ¶ 182.

MVPD freely, irrespective of whether MDU owners currently are locked into contracts with incumbent cable operators or own properties that are located in states with mandatory access laws. Therefore, the Commission should provide that the MDU owner may at any time give the incumbent cable operator 90 days' notice that its right to exclusive use of the inside wiring will be terminated. The Commission possesses the authority to adopt such a regulation under the Communications Act, the 1992 Cable Act, and the 1996 Telecommunications Act.<sup>17</sup> The Commission should use this authority to enable an MDU owner to give notice to the incumbent cable provider at any time, whether or not there is then an existing statutory right or contract in force, that the cable operator's right to exclusive use of the inside wiring will be terminated. Even if the Commission does not modify its rules in this fashion, it must nevertheless deny the requests of the cable interests to weaken the rules, as set forth below.

1. THE COMMISSION SHOULD APPLY THE INSIDE WIRING RULES  
IN STATES THAT HAVE ENACTED MANDATORY ACCESS LAWS

Under the *Inside Wiring Order*, the inside wiring rules are presumed to apply even in states that have enacted mandatory access laws unless “the incumbent obtains a court ruling or an injunction enjoining its displacement during the 45-day period following the initial notice [of termination by an MDU owner].”<sup>18</sup> In separate petitions for reconsideration, Time Warner and

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<sup>17</sup> See Communications Act of 1934, 47 U.S.C. § 151 *et seq.* (“Communications Act”); Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. § 543(a); Telecommunications Act of 1996, Pub. L. No. 104-104, § 207, 110 Stat. 114, *reprinted at* 47 U.S.C. § 303 note. Moreover, Section 4(i) of the Communications Act grants the Commission expansive authority to adopt regulations “not inconsistent with the Act, as may be necessary to the effective performance of the Commission’s functions.” 47 U.S.C. 154(i).

<sup>18</sup> *Id.* at ¶ 77. The one exception to this rule is where the highest court of a state has found that, under the state’s mandatory access statute, “an incumbent always has an enforceable

NCTA have asked the Commission to declare the inside wiring rules conclusively,<sup>19</sup> or at least presumptively,<sup>20</sup> inapplicable where a state has enacted a mandatory access statute.<sup>21</sup> Under Time Warner's proposal, an MDU owner in a mandatory access state would never be able to invoke the inside wiring rules. Under NCTA's proposal, the burden would be on the MDU owner to show in a particular case that a state's mandatory access law does not provide the incumbent with a right to maintain its home run wiring on the premises. These proposals should be rejected as contrary to the Commission's policy of facilitating MDU owners' ability to switch providers.

The proposals put forward by the cable interests would constitute an unwarranted exception to the inside wiring rules. The Commission's policy of promoting competition and consumer choice is equally valid in states that have mandatory access statutes as it is in states that do not. Yet under the cable interests' proposals, MDU owners in at least 18 states and numerous localities would be forever precluded from invoking the inside wiring rules to effectuate a switch of video service providers or to provide residents with additional providers. This attempt by the cable interests to exclude completely millions of viewers from the procompetitive policies of the inside wiring rules should not be countenanced by the Commission.

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right to maintain its home run wiring on the premises." In this circumstance, the inside wiring rules are presumed not to apply. *Id.* at ¶ 78.

<sup>19</sup> Time Warner Petition at 2.

<sup>20</sup> NCTA Petition at 4.

<sup>21</sup> In the alternative, Time Warner proposes that the building-by-building procedures should not apply in mandatory access states. Time Warner Petition at 8-9.

Indeed, rather than exempting incumbents in mandatory access states from the inside wiring rules, the Commission should affirmatively declare that mandatory access laws do not preclude the application of the inside wiring rules. State mandatory access laws were intended to provide consumers with the ability to obtain video programming,<sup>22</sup> not to prevent consumers or building owners from selecting from among several competing video providers. Therefore, no significant state interest would be harmed if the Commission were to prevent incumbents from using state mandatory access statutes as shields to ward off competitive MVPDs. Accordingly, DIRECTV supports the several commenters that have proposed that the Commission prevent incumbents from using state mandatory access laws to preclude MDU owners from invoking the inside wiring rules.<sup>23</sup>

At the very least, the Commission should clarify that state mandatory access statutes cannot be invoked by incumbents where an MDU owner elects to proceed under the Commission's unit-by-unit procedures. Under the unit-by-unit procedures, the incumbent will continue to have the right to maintain its wires in the building and will continue to provide video programming service to those residents who request it. Therefore, allowing MDU owners to invoke the unit-by-unit procedures will not conflict with an incumbent's rights under, or a state's policy behind, mandatory access laws.

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<sup>22</sup> See *Inside Wiring Order* at ¶ 182.

<sup>23</sup> See CEMA Petition at 2-4; WCA Petition at 10-14; MAP/CFA Petition at 17.

2. THE COMMISSION SHOULD REJECT ATTEMPTS BY THE CABLE INTERESTS TO ENHANCE THEIR ABILITY TO USE STATE JUDICIAL PROCEEDINGS TO DELAY AND DETER COMPETITION

The cable interests have petitioned for reconsideration of the Commission's decision to provide incumbents with 45 days in which to obtain a state court injunction preventing displacement of the incumbent under the inside wiring rules. Time Warner proposes that, if an incumbent files an action in state court within 30 days of receiving notice of termination of service, the inside wiring rules be tolled until the resolution of the action.<sup>24</sup> Similarly, NCTA proposes tolling the inside wiring rules if a state court issues an injunction at any time prior to the transfer of ownership of the inside wiring.<sup>25</sup> Both of these petitions would allow cable incumbents to create substantial uncertainty with respect to the rights of MDU owners and alternative MVPDs to access inside wiring.

In the *Inside Wiring Order*, the Commission correctly recognized that MDU owners and alternative MVPDs had "no timely and reliable way of ascertaining whether they will be able to use the existing home run wiring upon a change in service."<sup>26</sup> As the Commission explained, this uncertainty "can impede competition by discouraging MDU owners from considering a change in service."<sup>27</sup> Consequently, the Commission adopted the inside wiring rules "to provide all parties sufficient notice and certainty of whether and how the existing home

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<sup>24</sup> Time Warner Petition at 15-18.

<sup>25</sup> NCTA Petition at 5-6.

<sup>26</sup> *Inside Wiring Order* at ¶ 40.

<sup>27</sup> *Id.*

run wiring will be made available to the alternative video service provider so that a change in service can occur efficiently.”<sup>28</sup>

The Commission should deny petitions for reconsideration that seek to enhance the ability of incumbents to use state judicial proceedings to create uncertainty in MDU owners and thereby discourage competition. The inside wiring rules provide an incumbent with 45 days in which to obtain a state court injunction enjoining its displacement from a building.<sup>29</sup> Forty-five days is ample time for a state court to rule on the merits of a request for an injunction. Moreover, the forty-five-day time limit guarantees that an MDU owner or alternative MVPD will receive a determination of its right to access a building’s inside wiring within a reasonable amount of time. In contrast, a final determination on the merits of an incumbent’s claim could involve years of fact finding, appeals, and remands, during which time the MDU owner would, under the cable interests’ proposal, have no legal right to access the building’s wiring. Although it is theoretically possible that a state court could determine that the incumbent did not show a likelihood of success on the merits during the injunction phase of the proceeding and later find in favor of the incumbent, the Commission should not allow competition to be thwarted by such an improbable occurrence.

Indeed, the Commission should go further and rule that a preliminary (or final) resolution of an incumbent’s right to remain on the premises must occur within 45 days of receiving the notice of termination, and that if an incumbent cannot obtain an injunction or ruling within that time period, the state court will no longer retain jurisdiction over the action. By so

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<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at ¶ 77.

doing, the Commission would ensure that MDU owners and alternative MVPDs will not face the prospect of being held liable for damages after accessing inside wiring in a manner consistent with the Commission's rules. The threat of prospective damages would be detrimental to the development of competition in MDUs and would be unfair to those parties that relied on the Commission's inside wiring rules in determining their rights to access inside wiring. In light of the negative effect that even the prospect of such litigation could have on competition in the MDU market, the 45-day period of the current inside wiring rules provides an appropriate balance between the interests of incumbents and the ability of MDU owners to switch video service providers.

**III. THE COMMISSION SHOULD ADOPT CHANGES TO THE INSIDE WIRING RULES THAT WOULD ENHANCE COMPETITION**

In contrast to the petitions for reconsideration filed by the cable interests, DIRECTV and several other parties have filed petitions for reconsideration proposing changes to the inside wiring rules that would make them more effective at promoting competition and consumer choice in MDUs. If granted, these petitions would provide greater certainty to MDU owners and alternative MVPDs with respect to their right to access a building's inside wiring. In addition, these petitions would help foreclose the use of coercive tactics to deter MDU owners from switching video service providers. DIRECTV urges the Commission to grant these petitions for reconsideration and amend its inside wiring rules accordingly.

**A. DIRECTV SUPPORTS THE MAP/CFA PETITION TO MOVE THE DEMARCATION POINT TO THE PLACE WHERE HOME RUN WIRING BECOMES DEDICATED TO THE SUBSCRIBER'S UNIT**

DIRECTV supports the MPA/CFA Petition urging the Commission to reconsider its decision not to move the demarcation point to the place where home run wiring becomes

dedicated to the resident's unit. DIRECTV and several other parties supported moving the demarcation point in their initial comments in this proceeding. Nevertheless, the Commission failed to reach the merits of this proposal.<sup>30</sup>

The proposal to move the demarcation point deserves more thorough consideration by the Commission. The procompetitive benefits of moving the demarcation point are significant. Moving the demarcation point would provide MDU residents with greater flexibility in choosing their preferred video service provider. It also would provide MDU owners and alternative MVPDs with greater certainty with respect to their right to access home run wiring. Finally, it would provide regulatory simplicity and consistency with the Commission's established home wiring rules. Accordingly, DIRECTV supports the MAP/CFA Petition with respect to reconsideration of the proposal to move the demarcation point.<sup>31</sup>

**B. THE COMMISSION SHOULD GRANT PETITIONS THAT WOULD FORECLOSE THE ABILITY OF INCUMBENTS TO ENGAGE IN COERCIVE TACTICS TO IMPEDE COMPETITION FROM ALTERNATIVE MVPDS**

As the Commission recognized in the *Inside Wiring Order*, "MDU property owners often object to the installation of multiple home run wiring in the hallways of their properties, for reasons including aesthetics, space limitations, the avoidance of disruption and inconvenience, and the potential for property damage."<sup>32</sup> These concerns also exist when an

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<sup>30</sup> *Id.* at ¶ 149.

<sup>31</sup> In its petition for reconsideration, MAP/CFA also proposes to give MDU residents the right to acquire home run wiring before MDU owners and alternative MVPDs. DIRECTV has no position on this issue, but opposes any restrictions on the right of MDU owners and alternative MVPDs to purchase the wiring if an MDU resident declines to do so.

<sup>32</sup> *Inside Wiring Order* at ¶ 35.



MVPD removes home run wiring from a building. Several commenters agree that providing incumbents the right to remove home run wiring before first offering it to MDU owners for sale will allow incumbents to use the threat of removal to deter MDU owners from switching MVPDs.<sup>33</sup> In the face of such a threat, many MDU owners would simply decide to remain with the local cable incumbent. Accordingly, DIRECTV urges the Commission to require incumbents to offer the home run wiring for sale to the MDU owner before being allowed to remove it.

In addition, the Commission should set the purchase price of home run wiring at the depreciated value, salvage value, or replacement cost to prevent an incumbent from impeding competition by demanding an excessive price for home run wiring. Under current inside wiring procedures, incumbents have the ability to demand high prices for the sale of inside wiring. Moreover, because incumbents generally will have more information and experience regarding a reasonable price for the wiring than MDU owners, incumbents enjoy a substantial advantage during the negotiation process. As a result, MDU owners are faced with tremendous uncertainty with respect to the purchase price of wiring, and their residents' ability to obtain alternative MVPD programming may be delayed unnecessarily. DIRECTV agrees with the Wireless Cable Association that the Commission should address this concern by establishing the purchase price of home run wiring based on the depreciated value, salvage value, or replacement cost of the wiring.<sup>34</sup>

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<sup>33</sup> MAP/CFA Petition at 16-17; WCA Petition at 3.

<sup>34</sup> See WCA Petition at 10. Moreover, under no circumstances should an MDU owner be required to purchase wiring that an incumbent has elected to sell, nor should an MDU owner that seeks to purchase wiring be forced to submit to arbitration to establish the purchase price. See Time Warner Petition at 18-19. An MDU owner will not invoke the inside wiring rules if it faces the prospect of being obligated to purchase wiring or to

**C. THE COMMISSION SHOULD SHORTEN THE TIME PERIOD UNDER THE UNIT-BY-UNIT PROCEDURES PROVIDED TO INCUMBENTS TO DECIDE WHETHER TO SELL, ABANDON, OR REMOVE THE INSIDE WIRING**

DIRECTV joins Ameritech New Media, Inc. and the Wireless Cable Association in urging the Commission to shorten the current time limits established by the Commission under the unit-by-unit procedures.<sup>35</sup> Currently, an MDU owner must give 60 days' notice to the cable incumbent prior to termination of service. After receiving the notice, the cable incumbent has 30 days to decide whether to sell, remove, or abandon the home run wiring. These time periods far exceed the time periods established in the *Cable Wiring Order*. There is no reason that MDU residents should have to wait so much longer than single family home dwellers to enjoy the benefits of competition. Accordingly, DIRECTV supports the shortening of these time periods.

**D. THE COMMISSION SHOULD REQUIRE INCUMBENTS TO COORDINATE REMOVAL OF WIRING WITH THE INSTALLATION OF NEW WIRING**

In its petition for reconsideration, DIRECTV proposed that, whenever an incumbent decides to remove home run wiring from a building, it should be required to coordinate such removal with the installation of new wiring by an alternative MVPD. As explained above, the removal and installation of home run wiring has the potential to cause a great deal of a disruption to residents' lives. MDU owners and residents should not be required to bear that disruption twice simply to switch video service providers. By requiring the incumbent to coordinate its removal of home run wiring with the installation of new wiring, the

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purchase wiring at a price established by a third party over which the owner has no control.

<sup>35</sup> Ameritech Petition at 3-6; WCA Petition at 16-17.


Commission will help ensure that MDU owners and residents are not unnecessarily burdened by a change in providers.

#### **IV. CONCLUSION**

The ultimate goal of the Commission's inside wiring rules is to promote competition and enhance consumer choice in an industry that is dominated by cable service providers. Consistent with that goal, the Commission should reject attempts by the cable interests to dilute the effectiveness of the Commission's inside wiring rules and should, instead, grant the petitions for reconsideration that are consistent with the procompetitive policies underlying the *Inside Wiring Order*.

Respectfully submitted,

DIRECTV, Inc.



By: James F. Rogers  
Nandan M. Joshi  
LATHAM & WATKINS  
1001 Pennsylvania Avenue, N.W., Suite 1300  
Washington, D.C. 20004-2505

Counsel for DIRECTV, Inc.

January 15, 1998

## CERTIFICATE OF SERVICE

I hereby certify that I have this 15th day of January, 1998, caused copies of the foregoing "Opposition and Comments of DIRECTV, Inc. to Petitions for Reconsideration" to be served by first-class mail, postage prepaid (\* By Hand), on the following:

\*Chairman William E. Kennard  
Federal Communications Commission  
1919 M Street, N.W., Room 814  
Washington, D.C. 20554

\*Commissioner Harold Furchtgott-Roth  
Federal Communications Commission  
1919 M Street, N.W., Room 802  
Washington, D.C. 20554

\*Commissioner Susan Ness  
Federal Communications Commission  
1919 M Street, N.W., Room 832  
Washington, D.C. 20554

\*Commissioner Gloria Tristani  
Federal Communications Commission  
1919 M Street, N.W., Room 844  
Washington, D.C. 20554

\*Commissioner Michael Powell  
Federal Communications Commission  
1919 M Street, N.W., Room 844  
Washington, D.C. 20554

\*Meredith J. Jones  
Chief  
Cable Services Bureau  
Federal Communications Commission  
2033 M Street, N.W.,  
Washington, D.C., 20554

Gary Klein  
Consumer Electronics Manufacturers  
Association  
2500 Wilson Boulevard  
Arlington, Virginia 22201

Aaron I. Fleischman  
Fleischman and Walsh, L.L.P.  
1400 Sixteenth Street, N.W., Suite 600  
Washington, D.C. 20036

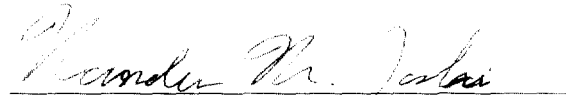
David A. Nall  
Squire, Sanders & Dempsey L.L.P.  
1201 Pennsylvania Avenue, N.W.  
Washington, D.C. 20044

Alan N. Baker  
Ameritech New Media, Inc.  
200 West Ameritech Center Drive  
Hoffman Estates, Illinois 60196

Daniel L. Brenner  
National Cable Television Association  
1724 Massachusetts Avenue, N.W.  
Washington, D.C. 20036

Joseph S. Paykel  
Media Access Project  
1707 L Street, N.W., Suite 400  
Washington, D.C. 20036

Paul J. Sinderbrand  
Wilkinson, Barker, Knauer & Quinn, L.L.P.  
2300 N Street, N.W.  
Washington, D.C. 20037-1138

  
Nandan M. Joshi